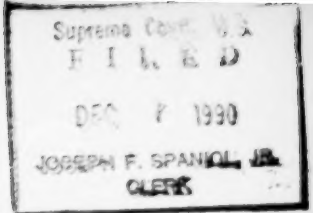


IN THE SUPREME COURT  
OF THE UNITED STATES OF AMERICA

OCTOBER TERM, 1990



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CHOPIN ASSOCIATES, acting by Theodore B. Gould and  
Miami Center Corporation, its Partners, and  
MIAMI CENTER LIMITED PARTNERSHIP,  
acting by Theodore B. Gould and  
Miami Center Corporation,  
its General Partners,

Petitioners,

v.

FRED STANTON SMITH, Trustee, THE BANK OF NEW YORK,  
CITY NATIONAL BANK OF FLORIDA, as Trustee of  
Land Trust #5008793, DADE COUNTY, FLORIDA,  
a Municipality, JOEL ROBBINS, as Property  
Appraiser of Dade County, Florida,  
FRED GANZ, as Tax Collector of  
Dade County, Florida,  
RANDY MILLER, as Executive Director of  
the Florida Department of Revenue,  
S. HARVEY ZIEGLER, as Escrow Agent  
for the Miami Center Liquidating Trust, and  
HERBERT STETTIN, as Escrow Agent  
for the Miami Center Liquidating Trust.

Respondents.

CASE NO. 90-761

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On Petition for Writ of Certiorari  
to the United States Court of Appeals  
for the Eleventh Circuit

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RESPONDENT, THE BANK OF NEW YORK'S,  
OPPOSITION TO PETITIONERS'  
"MOTION FOR DEFERRAL"

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Respondent, The Bank of New York (the "Bank"),\* respectfully submits this response in opposition to the Petitioners' "Motion for Deferral and Consideration of Petition". That motion should be denied for the following reasons:

1. Neither the rules nor the reported decisions of this Court contemplate an indefinite "deferral" while another case is determined by a lower court.

2. There is no relationship between the issues in this case -- which seeks review of the Eleventh Circuit's per curiam, unpublished affirmance of a real estate tax settlement with Dade County, Florida -- and the federal income tax issues involved in the appeal now pending on a petition for rehearing in banc in the Eleventh Circuit and described in the motion. In re Holywell Corp., 911 F.2d 1539 (11th Cir. 1990).

3. The petition in this case is frivolous. It is the eighth attempt by the same Petitioners to obtain review by this Court of lower court bankruptcy decisions. The decisions have already been reviewed by the district courts and courts of appeals. The Petitioners have commenced over fifty appeals from lower court orders and have attempted to re-litigate issues already decided and reviewed through the level of certiorari. This Court has denied all five previous petitions for certiorari and one for mandamus and prohibition, upon which the Court has

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\*Pursuant to Supreme Court Rule 29, the relationships of the Bank are attached as Exhibit "A".

ruled. The "motion for deferral" is as frivolous as the petitions.

It is respectfully submitted that the motion should be denied.


Respectfully submitted,

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By:   
Vance E. Salter

Certificate of Service

I HEREBY CERTIFY that on the 7th day of December, 1990, true copies of the foregoing were mailed to:

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03VS120790

EXHIBIT "A"

The following is a listing of the relationships of The Bank of New York:

(a) Parent of the Bank - The Bank of New York Company, Inc.

(b) "Affiliates" of The Bank are:

BNY Holdings (Delaware) Corporation  
The Bank of New York (Delaware)  
The Bank of New York Overseas Finance, N.C.  
Affinity Group Marketing, Inc.  
ARCS Mortgage Corp. (Fla.)  
ARCS Mortgage, Inc. (Calif.)  
BNY Leasing, Inc.  
Eastern Trust Company  
The Bank of New York Life Insurance Co., Inc.  
Capital Trust Company  
BNY Financial Corporation  
BNY Personal Brokerage, Inc.  
Beacon Capital Management  
The Bank of New York Trust Company, Inc.  
The Bank of New York Trust Company of California  
The Bank of New York Trust Company of Florida, N.A.  
Leonard Newman Agency, L.P.

City National Bank was joined below solely in its capacity as the trustee of a land trust. It is not affiliated with the Bank.